

REMARKS

The specification has been amended by adding the reference to U.S. Patent No. 5,383,878, as suggested by the examiner.

Claim 18 has been amended to more particularly point out the fixation screw device and the method by which the device is inserted. More specifically, the fixation screw device used in the claimed method has an exterior threaded surface configured to directly engage the natural tendon or ligament of the graft during insertion of the device into a bone hole. In the claimed method, the fixation screw device is threadably inserted into the hole so that as the device advances into the hole, the exterior threaded surface of the device engages the natural tendon or ligament of the graft and presses the natural tendon or ligament of the graft directly and firmly against the sidewall of the bone hole sufficiently to firmly secure the graft in the hole.

Claims 19 and 31, which depend on claim 18, have been similarly amended regarding the second fixation screw device and its method of use.

Claim 18 has been rejected over Kurikawa. Applicant appreciates the examiner's detailed explanation of the rejection, and respectfully submits that claim 18, as amended, distinguishes over Kurikawa for at least the reasons explained below.

Even if it is correct to consider Kurikawa's outer tubular body 10 and screw shaft 20 together as a "fixation screw device" (which applicant does not concede), Kurikawa nowhere suggests inserting his device to secure the graft in the bone hole in the manner recited in claim 18. This is so regardless of whether the insertion step is viewed as "not complete until the screw shaft 20 is screwed into the outer tubular body 10" (examiner's action page 3), or whether the insertion of outer tubular body 10 is considered alone. In either case, nothing in Kurikawa's device is threadably inserted into the hole so that as it advances into the hole, its exterior threaded surface engages the natural tendon or ligament of the graft and presses the natural tendon or ligament of the graft directly and firmly against the sidewall of the bone hole sufficiently to firmly secure the graft in the hole, all as recited in claim 18.

Consider first the insertion of outer tubular body 10 into the bone hole. As the examiner has pointed out, Kurikawa teaches that the outer threads 12 of body 10 "*softly bite* 'into the bone 1 and the ligament replacement 3 as it is screwed into the borehole 2' so that 'the end of the ligament replacement 3 is *secured lightly* within the borehole 2'" (pages 3-4 of the examiner's action, quoting page 8, last paragraph of the Kurikawa translation). In contrast, claim 18 recites that the fixation screw device is inserted so that as the device advances into the hole, the exterior threaded surface of the device engages the natural tendon or ligament of the graft and presses the natural tendon or ligament of the graft directly and firmly against the sidewall of the bone hole sufficiently to firmly secure the graft in the hole. Because the outer threads 12 of outer tube 10 only lightly secure the ligament replacement in the hole, the insertion of tube 10 does not satisfy the insertion step of claim 18.

The insertion of screw shaft 20 into the outer tubular body 10 fares no better. The outer threads 21 of screw shaft 20 contact the interior of tube 10, not the ligament replacement. Thus, as screw shaft 20 is advanced, its exterior threaded surface certainly does not engage the natural tendon or ligament of the graft and press the natural tendon or ligament of the graft directly and firmly against the sidewall of the bone hole sufficiently to firmly secure the graft in the hole, as recited in claim 18. Although the advancement of screw shaft 20 into outer tubular body 10 causes the threads of body 10 to press more firmly against the graft to secure the graft in the hole, the method recited in claim 18 distinguishes over that technique

Thus, for at least the foregoing reasons, applicant respectfully submits that claim 18, and hence its dependent claims, distinguish over Kurikawa. Roger has been cited against dependent claims only, and thus applicant needs not, and does not, address that reference further.

Applicant acknowledges the obviousness-type double patenting rejection, and is prepared to submit the appropriate terminal disclaimer when allowable subject matter is indicated.

Applicant : Gregory J. Rogan et al.
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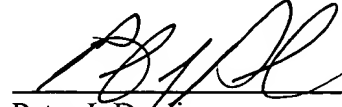
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Enclosed is a \$410 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: _____

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Peter J. Devlin
Reg. No. 31,753

Fish & Richardson P.C.
45 Rockefeller Plaza, Suite 2800
New York, New York 10111
Telephone: (212) 765-5070
Facsimile: (212) 258-2291